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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,025	11/27/2006	Kurt Schunke	41781/44564	9006

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EXAMINER	
WILLIAMS, ARUN C	

ART UNIT	PAPER NUMBER
2858	

MAIL DATE	DELIVERY MODE
11/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,025	SCHUNKE ET AL.	
	Examiner	Art Unit	
	ARUN WILLIAMS	2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *7/15/2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *7/15/2009* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 7/15/2009. These drawings are acceptable.

Response to Amendment

2. This is in response to an amendment/response filed on 7/15/2009

Claim 1 has been amended.

No claims have been cancelled.

No new claims added.

Hereon, claims 1-5 are currently pending; claims 1-5 are rejected.

Response to Arguments

Applicant's arguments filed 7/15/2009 have been fully considered but are now moot in view of the new grounds of rejection necessitated by amendment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1,3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eilinger, USNO. (2003/0089556) in view of Jeon et al, (Jeon), (USPATNO. 5,500,792)

As for claim 1, Eilinger discloses and shows in Fig. 1 a control unit for an electric motor of an actuator, the control unit comprising: a controller (10); a capacitive energy storage device (13) chargeable by a supply network (2) to supply power to the electric motor (9) in the event of a power failure, the capacitive energy storage device having a charge voltage (Abstract)

Eilinger discloses all limitations, but differs from the claimed invention because he does not explicitly disclose a temperature sensor assigned to the control unit to measure an ambient temperature; and a charge converter configured to convert the measured ambient temperature into a control signal to control a level of a current

provided to the capacitive energy storage device as a function of the measured ambient temperature.

Jeon discloses and shows in Fig. 7 a temperature sensor (232) assigned to the control unit (400A) to measure an ambient temperature; and a charge converter (400B) configured to convert the measured ambient temperature into a control signal to control the capacitive energy storage device (270) as a function of the measured ambient temperature (col.11, lines 19-29)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified the teachings of Eilinger by using a temperature sensor assigned to the control unit to measure an ambient temperature and a charge converter configured to convert the measured ambient temperature into a control signal to control a level of a current provided to a capacitive energy storage device as a function of the measured ambient temperature for advantages such as providing the ability to prevent over heating (col.11, lines 6-10), as taught by Jeon.

As for claim 3, Eilinger discloses the capacitive energy storage device (13) is continuously acted upon by the operational voltage (2) (par. [0029]).

As for claim 5, Eilinger discloses the capacitive energy storage device (13) is acted upon by electric energy from an electric motor circuit (9) (par.[0029]).

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilinger in view of Jeon and further in view of Okamura, (USPATNO.6,462,512)

Claim 2, Eilinger in combination with Jeon discloses all limitations, but differs from the claimed invention because he does not explicitly disclose an operational

voltage for the capacitive energy storage device is controlled by the charge converter as a function of the measured ambient temperature to an approximately constant value.

Okamura discloses and shows in Fig. 1 an operational voltage for the capacitive energy storage device (4) is controlled by the charge converter (3) as a function of the measured ambient temperature (1) to an approximately constant value (col.3, line 62-col.4, line 55)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified the combined teachings of Eilinger and Jeon by having an operational voltage for the capacitive energy storage device is controlled by the charge converter as a function of the measured ambient temperature to an approximately constant value for advantages such as providing the ability to control charge levels according to the use environment (col.2, lines 42-43) , as taught by Okamura.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eilinger in view of Jeon and further in view of Ito, (USPATNO.5,886,527)

Claim 4, Eilinger in combination with Jeon discloses all limitations, but differs from the claimed invention because he does not explicitly disclose the temperature sensor being integrated in the controller of the control unit.

Ito discloses and shows in Fig. 1 the temperature sensor (21) is integrated in the controller of the control unit (8) (col.3, lines 8-19)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified the combined teachings of Eilinger and Jeon by using the temperature sensor being integrated in the controller of the control unit for advantages such as providing the ability to accurately determine the state of deterioration (col.1, lines 38-39), as taught by Ito.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arun Williams whose telephone number is 571-272-9765. The examiner can normally be reached on Mon - Thrus,6:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edward Tso/
Primary Examiner, Art Unit 2858

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